

FRANKLIN COUNTY COMMON PLEAS COURT
CIVIL DIVISION

RRL Holding Company of Ohio, LLC :
655 Metro Place South, Suite 330
Dublin, Ohio 43017 : Case No.:

and : Judge

Firefly Agency LLC (f/k/a IHT :
Insurance Agency Group, LLC)
655 Metro Place South, Suite 330 :
Dublin, Ohio 43017 :

Plaintiffs,

v.

Merrilee Stewart :
182 Corbins Mill Drive :
Dublin, Ohio 43017 :

Defendant.

COMPLAINT

For its Complaint against Defendant Merrilee Stewart, Plaintiffs RRL Holding Company of Ohio, LLC ("RRL") and Firefly Agency LLC (f/k/a IHT Insurance Agency Group, LLC) ("Firefly/IHT") (collectively "Plaintiffs") state as follows:

NATURE OF THE CASE

1. This is an action to declare Defendant Merrilee Stewart a vexatious litigator.

PARTIES AND JURISDICTION

2. Firefly/IHT is a limited liability company organized under the laws of the state of Ohio. Firefly's primary business is the sale and service of insurance and insurance-related products to consumers and businesses through a network of independent producers.

3. Firefly/IHT is wholly owned by RRL Holding Company of Ohio, LLC ("RRL"). RRL Holding Company of Ohio, LLC is a limited liability company organized under the laws of the State of Ohio. The current members of Firefly/IHT are Bill Griffioen, Fritz Griffioen, and Rod Mayhill.

4. Stewart is an Ohio resident and currently resides in Franklin County. Stewart was formerly a member of RRL and officer of Firefly/IHT.

5. This Court has jurisdiction over this Complaint pursuant to R.C. § 2323.52. Venue is proper in Franklin County, as a significant portion of the conduct complained of has occurred in this county, and Stewart resides in this county.

6. Plaintiffs are persons with the authority to bring this action under R.C. § 2323.52(B), as they have defended against habitual and persistent vexatious litigation conduct by Stewart.

FACTUAL ALLEGATIONS

Overview

7. In late 2014, Stewart was removed as President of Firefly/IHT and as a member of RRL after she made a series of misrepresentations to her partners. In

October 2017, a three-member arbitration panel found Firefly/IHT and RRL's actions in removing Stewart to be lawful and consistent with the terms of the written agreements governing the parties' relationships.

8. Since her removal, Stewart has engaged in a bad-faith litigation vendetta, filing claims, complaints, and grievances against RRL/IHT with numerous courts, agencies, and tribunals, and spreading false accusations against RRL/IHT to the press and police. She has invented a massive embezzlement and fraud scheme at Firefly/IHT, accusing its owners and employees of criminal activity. No court, agency, or tribunal has ever found any merit to her substantive claims. Moreover, she repeatedly flouts court rules and orders. She has been found to be in contempt of a court order that she agreed to, and she has been ordered to show cause as to why she should not be held in contempt for perjury. Her repeated vexatious conduct is detailed below.

Vexatious Conduct in Franklin County Litigation and Arbitration

9. On March 2, 2015, RRL and Firefly/IHT filed a Complaint against Stewart and a separate company owned by Stewart, because Stewart was illegally holding herself out as still affiliated with RRL and IHT (Franklin County Common Pleas Case No. 15-CV-001842).

10. After Firefly/IHT sought a preliminary injunction, the parties negotiated an Agreed Order which prohibited Stewart from holding herself out to any third parties as affiliated with Firefly/IHT or RRL.

11. Stewart repeatedly violated the Agreed Order. First, in mid-2016, Defendant began filing claims with Firefly/IHT's insurers (including Hartford Financial and Liberty Mutual Insurance) for recovery of funds lost to alleged embezzlement by an employee. The embezzlement claim was an utter fabrication. Moreover, Stewart filed these claims purportedly on behalf of Firefly/IHT, but without any actual authority to act on behalf of Firefly/IHT and in violation of the Agreed Order.

12. Second, on July 27, 2016, Stewart made a complaint to the Columbus Police Department, Case Report No. 163056538-000 – purportedly on behalf of Firefly/IHT – against a Firefly/IHT employee for alleged embezzlement of 5-10 million dollars. She then contacted a reporter for the Columbus Dispatch in an attempt to have a story written concerning the “embezzlement scandal” at Firefly/IHT.

13. These actions led Judge Kim Brown to find that Stewart had violated the Agreed Order. After a February 8, 2017 show cause hearing, Magistrate Timothy N. Harildstad found that Stewart was in contempt of the Agreed Order and recommended sanctions.

14. As is her practice, on February 27, 2017, Stewart filed a motion objecting to the contempt finding and sanctions recommendation. Judge Brown denied Stewart's motion.

15. In the same order, Judge Brown also found that Stewart had committed perjury by lying under oath during the February 8, 2017 show cause

hearing. She found Stewart to be in contempt and referred her for a second show cause hearing.

16. On June 6, 2017, Stewart filed a premature appeal of Judge Brown's ruling confirming the Magistrate's contempt decision. The Tenth District Court of Appeals dismissed Defendant's appeal for lack of jurisdiction on June 30, 2017 (Case No. 17-AP-410).

17. Meanwhile, Stewart had filed counterclaims and affirmative defenses implicating an arbitration clause in the parties' written operating agreements. Accordingly, on November 19, 2015, the court referred the parties' dispute to arbitration and stayed the litigation of the underlying claims. After much foot-dragging by Stewart, the arbitration was commenced in September 2016.

18. Notwithstanding the pending arbitration, Stewart continued to file motions in the Franklin County case. On July 5, 2017, Stewart filed a "Motion for Leave to Amend and Prepare Cross Complaint Based Upon New Information" on July 5, 2017. The Court denied that Motion on July 11, 2017 due to the fact that the case was stayed pending arbitration and Stewart did not detail what "new information" she possessed.

19. On September 12, 2017, Stewart filed a "Motion for Advancement of Fees" based on a statute that had no applicability to the case. That motion was denied on December 12, 2017.

20. On September 18, 2017, Stewart filed a "Motion for Attorney Sanctions" against James Carnes. Plaintiffs' counsel, alleging "subordination of

perjury,” witness tampering, and obstruction of justice. This motion was denied on December 12, 2017.

21. On January 8, 2018, Stewart again filed an appeal with the Tenth Appellate District Court of Appeals; this time appealing Judge Brown’s November 19, 2015 order staying the case pending arbitration. Inexplicably, this appeal was filed more than two years after entry of the order in question and *after* the arbitration proceedings were already concluded. As with Stewart’s previous appeal, this appeal was dismissed on February 1, 2018.

22. The Franklin County case is still pending. RRL and Firefly/IHT prevailed at arbitration, and the court entered judgment confirming the arbitration award on February 5, 2018. Per her usual practice, Stewart has yet again appealed Judge Brown’s order to the Tenth District, which appeal remains pending (Case No. 18-AP-118).

23. Over the course of this litigation, Stewart has been represented by four different law firms, all of whom have withdrawn. She has represented herself *pro se* since April, 2017, and there has been a notable uptick in her frivolous filings since that time.

Ohio Department of Insurance Complaint

24. On February 5, 2015, Stewart filed a complaint against IHT with the Ohio Department of Insurance, alleging that IHT had committed various violations of insurance regulations. The Department did not find any wrongdoing or take any action against IHT.

Ohio Civil Rights Commission Complaint

25. On June 10, 2015, Defendant filed an Ohio Civil Rights Commission complaint against Plaintiffs, File No. COL71(41835)06102015, alleging that she was treated differently due to her sex and her religion. The Commission's initial investigation found that there was "insufficient information to establish that Respondent unlawfully discriminated" against Defendant. Defendant filed a "Request for Reconsideration" on April 12, 2016, and the Commission yet again issued a "no probable cause" finding on May 19, 2016.

Wood County Embezzlement Complaint

26. On February 29, 2016, Defendant filed an embezzlement complaint against Fritz and William Griffioen, two members of RRL and officers of Firefly/IHT, in Wood County, Ohio, Case No. 2016-CV-0127. This case is currently stayed pending final resolution of the Franklin County case (which Stewart has repeatedly delayed). The claims are baseless and rest on similar allegations to those rejected by the arbitration panel.

Federal Court ERISA Action

27. Less than two weeks later, Stewart filed an action against Firefly/IHT and RRL in the United States District Court for the Southern District of Ohio, Case No. 2:16-CV-00210, alleging violations of ERISA. This case is also currently stayed pending arbitration of the Franklin County case. Again, the claims are baseless.

Bar Grievance Against Plaintiffs' Attorney

28. On May 4, 2016, Defendant filed a grievance with the Supreme Court of Ohio Office of Disciplinary Counsel, File No. B6-0961, against one of Plaintiffs' attorneys, Zachary Madden, alleging a conflict of interest. This file was closed on May 19, 2016 without any finding of wrongdoing.

Claims Against Stewart's Former Attorneys.

29. Stewart has also been sued for \$15,614.83 in unpaid fees by one of her former law firms, Mowery Youell & Galeano, Ltd., in Franklin County, Case No. 18-CV-001994. On May 16, 2018, Stewart (acting *pro se*) filed a 42-page, 295-paragraph counterclaim and third-party complaint seeking more than \$1.5 million in damages. Stewart then removed the case to federal court (S.D. Ohio Case No. 18-CV-503), where it remains pending. On August 15, 2018, the federal court requested briefing on federal jurisdiction, as it does not appear Stewart had any legitimate basis for removing the case.

30. Stewart's substantive counterclaims are premised on the same made-up "embezzlement" scheme involving RRL and Firefly/IHT that Stewart has raised in the past. Although they are not parties to this case, Stewart's counterclaim makes numerous baseless accusations of criminal activity against RRL and Firefly/IHT, as well as their members, employees, and attorneys. Needless to say, all of these accusations are baseless.

FIRST CLAIM FOR RELIEF – VEXATIOUS LITIGATOR DECLARATION
(R.C. § 2323.52)

31. Plaintiffs incorporate the foregoing factual allegations.

32. Stewart's conduct has served merely to harass or maliciously injure Plaintiffs and third parties; was not warranted under existing law and was not supported by a good faith argument for an extension, modification, or reversal of existing law; and/or was imposed solely for delay. Her conduct constitutes vexatious conduct pursuant to R.C. § 2323.52.

33. Stewart has habitually, persistently, and without reasonable grounds engaged in vexatious conduct.

34. Defendant is a vexatious litigator as defined by R.C. § 2323.52.

35. Defendant is certain to continue to engage in further vexatious conduct unless she is prohibited from doing so by an Order of this Court.

WHEREFORE, Plaintiffs pray that this Honorable Court grant the following relief:

- a. Declare that Defendant is a vexatious litigator pursuant to R.C. § 2323.52.
- b. Issue an Order, pursuant to R.C. § 2323.52(D), indefinitely prohibiting Defendant from instituting any litigation, continuing any litigation, or making any application in any litigation, in any court of the State of Ohio or its subdivisions, without first obtaining leave from this Court.
- c. Award Plaintiffs attorney fees and costs for this action.
- d. Grant any further relief to which Plaintiffs are entitled in the interest of justice.

Respectfully Submitted,

/s/ Matthew T. Kemp
James R. Carnes (0070005)
Matthew T. Kemp (0093136)
Shumaker, Loop & Kendrick, LLP
1000 Jackson Street
Toledo, Ohio 43604
Telephone: (419) 241-9000
Fax: (419) 241-6894
Email: jcarnes@slk-law.com
mkemp@slk-law.com
Attorneys for Plaintiffs